



STATE OF DELAWARE
EXECUTIVE DEPARTMENT
OFFICE OF
STATE PLANNING COORDINATION

September 10, 2004

Mr. Bob Currie
R. W. Currie & Son, Inc.
602 N. Walnut Street
Milford, DE 19963

RE: PLUS review – PLUS 2004-08-15; Abbey Estates

Dear Mr. Currie:

Thank you for meeting with State agency planners on August 25, 2004 to discuss the proposed plans for the Abbey Estates project to be located on the East side of Route 1, north of Waples Road. According to the information received, you are seeking site plan review for 7 single family residential units on 6.194 acres.

Please note that changes to the plan, other than those suggested in this letter, could result in additional comments from the State. Additionally, these comments reflect only issues that are the responsibility of the agencies represented at the meeting. The developers will also need to comply with any Federal, State and local regulations regarding this property. We also note that as Sussex County is the governing authority over this land, the developers will need to comply with any and all regulations/restrictions set forth by the County.

This office has received the following comments from State agencies:

Office of State Planning Coordination – Contact: Ann Marie Townshend 739-3090

The Office of State Planning Coordination notes that this proposal is located in the “Investment Level 4” area according to the 2004 draft update of the Strategies for State Policies and Spending. The draft update of the Strategies document has been endorsed by the Cabinet Committee on State Planning issues and is awaiting final approval by Governor Minner. In Investment Level 4 areas, State policies do not support development, but rather the preservation of agricultural and natural resources.

We also note that several State agencies have raised concerns about the project's potential impacts on the area. If you move forward with the application, we ask that you consider agency comments and redesign the project to reduce potential impacts on the adjacent Waples Pond and to provide the service road required by DelDOT.

State Historic Preservation Office (SHPO) – Contact: Anne McCleave 739-5685

This development is proposed for the Rural Area. Our office does not favor any development in the rural area. If the development takes place, be aware that there is a potential historic house immediately northeast of the subject parcel. It is requested that landscaping be planted along the north and east perimeters of the development to act as a visual buffer between the two properties. Also, we recommend that the development stay out of the wooded area along the south side of the parcel and along Waples Pond. Providing a buffer between the wooded area and the development will help protect any archaeological sites.

Department of Transportation – Contact: Bill Brockenbrough 760-2109

- 1) Because the development is proposed for a Rural Area, it is inconsistent with the Strategies for State Policies and Spending. Therefore DelDOT will not participate in the cost of any road improvements needed to support this development. The comments that follow relate to the Corridor Capacity Preservation Program, and are not intended to suggest that DelDOT supports this development proposal.
- 2) Because of its location on Delaware Route 1, between Nassau and Dover Air Force Base, this development is subject to the Corridor Capacity Preservation Program. Regarding a previous development proposal for this property, DelDOT indicated that we would permit the development of two additional lots while maintaining the original residence. However, based on the new proposal, DelDOT will not permit any Route 1 access for the proposed development. It is DelDOT's intent is to serve the properties along this section of Route 1 eventually through a service road from Prime Hook Road (Sussex Road 38). When the service road reaches this parcel, DelDOT will close the access on Route 1.

The developer should attempt to secure the necessary easements to allow for a connection to Prime Hook Road. If the developer cannot obtain the necessary easements, DelDOT is willing to consider the purchase of the property.

Accordingly, DelDOT asks that right-of-way be provided for the service road. For information on where the service road might be located, DelDOT asks that the applicant contact our Subdivision Engineer, Mr. Drew Boyce. Mr. Boyce may be reached at (302) 760-2165.

- 3) When the service road issue has been addressed on the plan, the developer's site engineer should contact our South District Permit Supervisor, Mr. Gemez Norwood, regarding the DelDOT requirements with regard to the design of the site entrance on the service road. Mr. Norwood may be reached at (302) 853-1340.

**The Department of Natural Resources and Environmental Control – Contact:
Kevin Coyle 739-3091**

Soils

According to the Sussex County soil survey, Sassafras was mapped in the immediate vicinity of the proposed construction. Sassafras is a well-drained upland soil that has few limitations for development.

TMDLs

Although Total Maximum Daily Loads (TMDLs) as a “pollution runoff mitigation strategy” to reduce nutrient loading have not yet been developed for the Delaware Bay watershed and associated tributaries within the vicinity of the proposed project to date, work is currently progressing on their development and they should be available in the near future.

Therefore, until the specified TMDL reductions and pollution control strategies are adopted, it shall be incumbent upon the developer to employ best available technologies (BATs) and/or best management practices (BMPs) as “methodological mitigative strategies” to reduce degradative impacts associated with development.

Buffers

It should be noted that this parcel is immediately adjacent to Primehook Creek, a headwater riparian stream which empties into the Delaware Bay. Headwater streams are important for the protection of water quality and the maintenance/integrity of the ecological functions throughout the length of the stream, including the floodplain system and/or waterbodies downstream. Since headwater streams are a major avenue for nutrient-laden stormwater and sediment runoff, their protection deserves the highest priority. **Therefore, it is strongly recommended that the applicant maintain a minimum 100 foot vegetated buffer from the stream and/or wetlands. Additionally, the Department strongly recommends that the applicant preserve the existing natural forested buffer contiguous to southern border of said parcel be preserved in its entirety. Efforts to maximize or expand (beyond the recommended 100-foot minimum) the existing natural buffer width with native herbaceous and/or wood vegetation, is strongly recommended.**

A 50-foot buffer of native herbaceous and/or woody plant species is recommended along the periphery of all constructed waterbodies and/or stormwater management pond(s).

Water Supply

The Division of Water Resources will consider applications for the construction of on-site wells provided the wells can be constructed and located in compliance with all requirements of the Regulations Governing the Construction and Use of Wells. A well construction permit must be obtained prior to constructing any well(s).

Should dewatering points be needed during any phase of construction, a dewatering well construction permit must be obtained from the Water Supply Section prior to construction of the well points. In addition, a water allocation permit will be needed if the pumping rate will exceed 50,000 gallons per day at any time during operation.

All well permit applications must be prepared and signed by licensed water well contractors, and only licensed well drillers may construct the wells. Please factor in the necessary time for processing the well permit applications into the construction schedule. Dewatering well permit applications typically take approximately four weeks to process, which allows the necessary time for technical review and advertising.

Potential Contamination Sources do exist in the area, and any well permit applications will undergo a detailed review that may increase turnaround time and may require site specific conditions/recommendations.

Should you have any questions concerning these comments, please contact Rick Rios at 302-739-3665.

Stormwater Management

A detailed sediment and stormwater plan will be required prior to any land disturbing activity taking place on the site. The plan review and approval as well as construction inspection will be coordinated through Sussex Conservation District. Contact Jessica Watson, Program Manager, at (302) 856-7219 for details regarding submittal requirements and fees.

It is strongly recommended that you contact Sussex Conservation District to schedule a pre-application meeting to discuss the sediment and erosion control and stormwater management components of the plan. The site topography, soils mapping, pre and post development runoff, and proposed method(s) and location(s) of stormwater management should be brought to the meeting for discussion. If infiltration is the intended method of stormwater management, the required infiltration testing of soils should be completed prior to the pre-application meeting as well.

A Notice of Intent (NOI) for Stormwater Discharges Associated with Construction Activity must be submitted to DNREC Division of Soil and Water Conservation along with the \$195 NOI fee prior to plan approval.

Applying practices to mimic the pre development hydrology on the site, promote recharge, maximize the use of existing natural features on the site, and limit the reliance on structural stormwater components, should be considered in the overall design of the project as a stormwater management technique.

Each stormwater management facility should have an adequate outlet for release of stormwater. If an easement can be obtained to convey the site discharge across state land to Waples Pond, it is likely that a stormwater quantity management waiver can be approved for the site. Any drainage conveyed onto this site from neighboring properties must be adequately conveyed through the site to the discharge point without interruption.

Even if a stormwater quantity management waiver is approved for the site, stormwater quality management will need to be addressed. Stormwater management facilities must not be located on lots; therefore, a separate stormwater management area will need to be designed into the project.

Habitat

The proposed project lies within five miles of a known Delmarva fox squirrel (*Sciurus niger cinereus*) population at the Prime Hook National Wildlife Refuge. Delmarva fox squirrels were listed as federally endangered in 1967 and are protected by the Endangered Species Act. They generally inhabit mature forests with open understories and wet woodlands, but can be opportunistic in their habitat choice. The proposed project area contains potential habitat for Delmarva fox squirrels and the following is required prior to beginning work:

1. Completely avoid all direct and indirect impacts to the habitat, in consultation with the U.S. Fish and Wildlife Service (Trevor Clark 410-573-4527) and Delaware Division of Fish and Wildlife, Nongame and Endangered Species Program (Holly Niederriter 302-653-2880);

OR

2. Have surveys conducted to determine if Delmarva fox squirrels are present. In accordance with Delaware's fox squirrel site survey procedures, surveys must be conducted by a State approved fox squirrel surveyor two times between September and May: once in the fall, and again between March 15 and May 30. A list of qualified surveyors is available upon request. Please note that surveys may confirm the presence of fox squirrels but cannot confirm absence.

The proposed project borders Waples Pond, which is publicly owned and managed by the Division of Fish and Wildlife, DNREC. The State is concerned that the water quality and fish habitats in the pond might be negatively affected by development activities, or by permanent land use changes, on the property in question. The developer should consult with the Regional Fisheries Biologist (currently Cathy Martin, 302-653-2887) and the Division of Soil and Water Conservation (Bonnie Willis 302-739-3451) to ensure that appropriate measures such as vegetated buffer strips or nonpoint-source pollution reduction devices are part of the project design. A vegetative buffer (preferably trees) of at least 100ft is recommended to reduce runoff of sediments, pollutants, and other non-point source material into the pond.

In addition, this parcel borders Prime Hook National Wildlife Refuge, a federally-owned public area. The developer should consult with the Refuge Manager (currently Johnathan Shaffler, (302) 684-8419) to minimize potential negative impacts of the proposed project on the refuge.

Revegetation

It is requested that no invasive species be used in the revegetation of disturbed areas. A list of species considered invasive in Delaware can be found on the DNHP web site, <www.dnrec.state.de.us/fw/invasive.htm>. DNREC recommends the use of native plants and their Botanist, Bill McAvoy can be contacted at (302) 653-2880 to assist you in developing a plant list.

State Resource Areas/Natural Areas

This project borders land currently identified as part of a State Resource Area. State Resource Areas are comprised of lands that contain a variety of natural, cultural and open space resources significant to the state. Consideration should be given to protecting these resources during design and construction of this project. For more information, please contact Ron Vickers, Land Protection Office, 739-3423.

This project borders land currently listed on Delaware's Natural Areas Inventory. Natural Areas contain lands of statewide significance identified by the Natural Area Advisory Council as the highest quality and most important natural lands remaining in Delaware. Consideration should be given to protecting these resources during design and construction of this project. The developer should investigate dedicating the Natural Area as a Nature Preserve through a conservation easement or donation of land. For more information, please contact the Office of Nature Preserves at 739-3423.

DNREC recommends a minimum 100 foot vegetative buffer along the southern and eastern portions of the project in which no clearing of vegetation or building of permanent structures be permitted. In order to provide increased protection for surface water quality, it is recommended that lot lines remain outside of the buffer and reforestation occur in areas where the existing buffer is less than 100 feet wide.

Recreation

DNREC would appreciate the consideration of the dock access to Waples Pond. Water enthusiasts can safely access the pond while avoiding Route 1.

Underground Storage Tanks

There are no LUST sites located near the proposed project. However, should any underground storage tank or petroleum contaminated soil be discovered during construction, the Tank Management Branch must be notified as soon as possible. It is not anticipated that any construction specifications would be need to be changed due to petroleum contamination. However, should any unanticipated contamination be encountered and PVC pipe is being utilized, it will need to be changed to ductile steel in the contaminated areas.

State Fire Marshal's Office – Contact: Duane Fox 856-5298

These comments are intended for informational use only and do not constitute any type of approval from the Delaware State Fire Marshal's Office. At the time of formal submittal, the applicant shall provide; completed application, fee, and three sets of plans depicting the following in accordance with the Delaware State Fire Prevention Regulation (DSFPR):

a. **Fire Protection Water Requirements:**

- Since the dwellings of the subdivision are proposed to be served by individual on-site wells (No Central Water System), set back and separation requirements will apply.

b. **Accessibility:**

- All premises which the fire department may be called upon to protect in case of fire, and which are not readily accessible from public roads, shall be provided with suitable gates and access roads, and fire lanes so that all buildings on the premises are accessible to fire apparatus. This means that the access road to the subdivision from Route 1 must be constructed so fire department apparatus may negotiate it.
- Fire department access shall be provided in such a manner so that fire apparatus will be able to locate within 100 ft. of the front door.
- Any dead end road more than 300 feet in length shall be provided with a turn-around or cul-de-sac arranged such that fire apparatus will be able to turn around by making not more than one backing maneuver. The minimum paved radius of the cul-de-sac shall be 38 feet. The dimensions of the cul-de-sac or turn-around shall be shown on the final plans. Also, please be advised that parking is prohibited in the cul-de-sac or turn around.

- If the use of speed bumps or other methods of traffic speed reduction must be in accordance with Department of Transportation requirements.

c. Gas Piping and System Information:

- Provide type of fuel proposed, and show locations of bulk containers on plan.

d. Required Notes:

- Provide a note on the final plans submitted for review to read “ All fire lanes, fire hydrants, and fire department connections shall be marked in accordance with the Delaware State Fire Prevention Regulations”
- Proposed Use
- National Fire Protection Association (NFPA) Construction Type
- Maximum Height of Buildings (including number of stories)
- Provide Road Names, even for County Roads

Preliminary meetings with fire protection specialists are encouraged prior to formal submittal. Please call for appointment. Applications and brochures can be downloaded from our website: www.delawarestatefiremarshal.com, technical services link, plan review, applications or brochures.

Department of Agriculture - Contact: Mark Davis 739-4811

The proposed Abbey Estates, east of SR-1 just north of Waples Pond is located in investment level 4 (Rural). The surrounding area mainly agricultural land, much of it is preserved through the DALPF. DDA is not in favor of this proposed land development activity.

A forested buffer is required between the proposed subdivision and all adjacent properties in active agricultural use. In addition, a forest buffer should be maintained for those pre-existing residential properties and along all streams, wetlands, and river that border the proposed subdivision.

The developer should consider a diverse landscape plan that uses Delaware native tree and shrub species and encourages the “Right Tree for the Right Place” concept.

Public Service Commission - Contact: Andrea Maucher 739-4247

The project information sheets state that individual on-site wells will be used to provide water for the proposed project. PSC records indicate that the project is not located in an area where public water service is available.

Any expansion of natural gas or installation of a closed propane system must fall within Pipeline Safety guidelines. Contact: Malak Michael at (302) 739-4247.

Delaware Emergency Management Agency – Contact: Don Knox 659-3362

No significant impact to public safety is foreseen by implementation of this project. Portions of this property are located in the Special Flood Hazard Area inundated by the 100 and 500-year flood. This area is subject to possible flooding from category 2, 3, and 4 hurricanes. Routes 1, 5, and 16 are coastal storm evacuation routes and may be congested during a coastal storm event.

Sussex County – Contact: Richard Kautz 855-7878

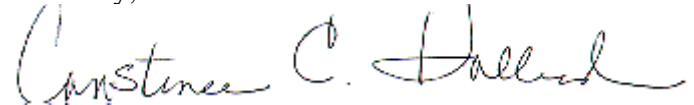
The Sussex County Engineering Department

Individual on-site wastewater systems are proposed to serve the subdivision of approximately 6.2 acres into 7 lots. The project is within the North Coastal Planning Area but is not in an area where Sussex County expects to provide sewer service in the foreseeable future. Sussex County has no objection to the lots being served by individual on-site systems. For questions regarding these comments, contact Rob Davis, Sussex County Engineering Department at (302) 855-7820.

Following receipt of this letter and upon filing of an application with the local jurisdiction, the applicant shall provide to the local jurisdiction and the Office of State Planning Coordination a written response to comments received as a result of the pre-application process, noting whether comments were incorporated into the project design or not and the reason therefore.

Thank you for the opportunity to review this project. If you have any questions, please contact me at 302-739-3090.

Sincerely,

A handwritten signature in dark ink, appearing to read "Constance C. Holland". The signature is fluid and cursive, with the first name "Constance" being the most prominent part.

Constance C. Holland, AICP
Director

CC: Richard Kautz, Sussex County